

**IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA**

JOE G. PATTEN, a/k/a THE
PHANTOM OF THE FOX,

Plaintiff

v.

ATLANTA LANDMARKS, INC.,
d/b/a THE FOX THEATRE and
EDWARD L. "WOODY" WHITE,
JR.

Defendants.

CIVIL ACTION
No. 2010CV191734

JURY TRIAL
REQUESTED

AFFIDAVIT OF PATTI PATTEN-CARLEN

Personally appeared before the undersigned officer duly authorized to administer oaths,
PATTI PATTEN-CARLEN, who, after being duly sworn, deposes and says as follows:

1.

My name is Patti Patten-Carlen. I am over 18 years old and competent to testify and submit this Affidavit, which is based on my personal knowledge. I understand this affidavit will be submitted in the above referenced case.

2.

I am the sister of Joe G. Patten. I stay very close to Joe and speak with him regularly by phone from my home in Deland, Florida.

3.

After I learned that Joe had suffered a minor stroke on July 11, 2010, my daughter-in-law, Dr. Anna Peele, and I traveled to Atlanta to visit Joe while he was rehabilitating at Wesley Woods.

4.

On or around July 18, 2010, one week after Joe's minor stroke, I went Joe's room for a visit. Although I knew Joe had difficulties in the first days after his stroke, I was delighted to find that Joe had improved and was doing very well.

5.

When I arrived in Joe's room at Wesley Woods, Robert L. Foreman, Jr., a member of the Board of Trustees of Wesley Woods, was also present. Shortly after my arrival, he informed me that Shelly Kleppsattel, an assistant manager of the Fox Theatre, had requested that I meet with her at her office at the Fox Theatre.

6.

On or around July 19, 2010, I went to the business office of the Fox Theatre to meet with Ms. Kleppsattel. When I arrived, I was surprised to find that both Ms. Kleppsattel was accompanied by Mr. Allan C. Vella, the General Manager of the Fox Theatre.

7.

Ms. Kleppsattel and Mr. Vella then proceeded to discuss Joe's health and living situation. Both Ms. Kleppsattel and Mr. Vella explained that, in light of Joe's health condition, they thought it was time for Joe to move out of his apartment and into an assisted living facility. Mr. Vella explained that, if Joe would move out of his apartment and into an assisted living facility they would make Joe's apartment available for "casual visits". It was their belief that he should no longer reside at his apartment. Mr. Vella told me that he wanted me to know that they were not chomping at the bit to get into Joe's apartment and they did not need it for anything. He stated they were just concerned for Joe's health. Since I had observed Joe's successful rehabilitation and knew Joe was planning to return to his apartment, I was frankly stunned by Ms. Kleppsattel and Mr. Vella's statements.

8.

I returned again to Wesley Woods to visit Joe. While I was in Joe's room, I spoke again to board member Robert L. Foreman, Jr., and expressed my concern that the Fox Theatre appeared to want to evict Joe from his apartment or restrict his access. Mr. Foreman told me that the Board of Trustees was meeting the next day and would likely discuss Joe's health condition and present living situation. I expressed to Mr. Foreman that I thought Joe's health and future living arrangements were a matter for Joe and his family to discuss, not a matter for the Board of Trustees.

9.

On or around July 21, 2010, I received a call from Mr. Foreman. Mr. Foreman told me that the Executive Committee of the Board of Trustees had discussed Joe's health and living arrangements and decided that Joe should not return to his apartment at the Fox Theatre. Mr. Foreman asked that I accompany him to visit with Joe to break this unwelcome news.

10.

Instead, I went alone to visit Joe. I spoke to Joe's nurses, therapists, and social worker and asked them what they thought about Joe's condition. Each staff member that I talked to said that Joe would be released soon because he had improved so quickly and was doing so well. At that time, I made them aware of the stairs leading to his apartment. The staff members thanked me and said that they would begin to practice steps with Joe and perform the necessary physical therapy before releasing him to return to his apartment.

11.

I also spoke to Joe and informed him of the "decision" made by the Executive Committee. Joe was visibly shaken and hurt by this news. Nevertheless, Joe said he was intent on returning to his apartment.

12.

Since I did not think it was fair or appropriate for the Board of Trustees to decide that Joe should stay in an assisted living facility instead of returning to his apartment, I went to Joe's apartment and found a copy of his lease agreement. I asked my daughter-in-law, Dr. Peele, to help me determine if it was legal for the Fox Theatre to so hastily and callously restrict Joe from living at his apartment of 31 years. Based upon my discussions with Dr. Peele and others, I told Joe that I thought it was his decision, and not the Fox Theatre's, to return to his apartment.

13.

Several days later, I received several phone calls from Ms. Kleppsattel. She told me that she felt that Joe was not in condition to return to his home. She asked whether it was ok if Edward L. "Woody" White could call me to discuss Joe's living situation. She also asked when Joe was going to be released from Wesley Woods. I decided not to give her this information because I thought that she and the other representatives of the Fox Theatre would try to prevent Joe from returning to his apartment if he decided to return home.

14.

On or around the first week of August, I learned that Joe was going to be released soon

from Wesley Woods. My husband and I quickly made arrangements to go to Atlanta to visit Joe after his return home.

15.

On August 11, 2010, Joe was discharged from Wesley Woods. My husband and I arrived at Joe's apartment at almost the same time that Mr. Foreman and his wife, Anne, had arrived with Joe. As I pulled up to park at the Fox Theatre, Ms. Kleppsattel came out of her office at the Fox Theatre and asked, "Is Joe home?" I said, "Yes." Ms. Kleppsattel informed me that she would be "up to see you in a little while."

16.

Within an hour or so after Joe's return from Wesley Woods, Mr. White and Beachamp Carr, another member of the Fox Board of Trustees, showed up at Mr. Patten's door to ask whether they could speak to Joe. Joe had not yet had the chance to have a drink or go to his bedroom. Mr. White said that he had originally planned on going to visit Joe at Wesley Woods, but he had just learned that Joe had already returned home.

17.

Mr. White and Mr. Carr sat down on the couch next to Joe, and Mr. White said that he wanted to discuss Joe's future living arrangements. In a condescending tone as if spoken to a child, Mr. White said that he had already had this discussion a few times with Joe about needing to move into an assisted living facility. Both Mr. White and Mr. Carr said that they were concerned with Joe's health but their duties to the Fox were over and above their feelings for Joe. Mr. White then handed Joe a letter, stating that Atlanta Landmarks, Inc. would terminate Joe's lease if he did not move into an assisted living facility. Both men were obviously trying to bully Joe. Mr. White also handed Joe a document containing the address and cost information of ten or so assisted living facilities.

18.

Mr. White also made a point of stating that Joe was no longer able to carry out his "security responsibilities," and he could no longer carry out any other duties within the Fox Theatre. He said that, for example, Joe was no longer able to climb ladders. Joe was visibly insulted by Mr. White's statements about his physical capacity, and responded by saying, "I can climb any ladder you can."

19.

The next day, my husband received a call from Alan Thomas, the Chairman of the Board of Trustees, saying that he was eager to see Joe and wanted to visit Joe at his apartment. My husband told Mr. Thomas that Joe was not available to meet with Mr. Thomas.

20.

Since Joe's return to his apartment, I have stayed in close contact with Joe. I speak to him often, and I discuss with him his health and his living arrangement. Joe is in charge of his faculties and does not need to be treated like a child. Whether and when Joe should seek living assistance or move into assisted living facility is a question for Joe and our family, and not Atlanta Landmarks.

[signature on next page]

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 25th day of October, 2010.

FURTHER AFFIANT SAITH NOT.

Patti Patten-Carlen

Patti Patten-Carlen

Sworn to before me this 25th day of October, 2010.

Laura J. Remington
Notary Public

My commission expires on

